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Being Dismissive: The Realities of Having a Lawsuit Dismissed

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We often hear the phrases "frivolous case" or "thrown out of court," and, as these sayings imply, we make broad assumptions about the procedural and substantive validity of a lawsuit based on our subjective (and usually one-sided) perception of the case's merits. Those who have been sued often believe that there is a fast-track method for victory because commonsense says that they are "in the right."

But, despite this frequent view that lawsuits can easily be dismissed, the reality in America is that everyone enjoys the fundamental right to be heard and have their day in court. That means that almost anyone is able to file a lawsuit for whatever reason, hail a party into court, and the judge may dispose of the lawsuit based only on a narrow set of justifications. Contested factual issues must be decided at trial by a jury unless a jury trial is validly waived by the parties. It's crucial to remember that the job of a jury is to determine the facts of the case. It is the sole province of the judge to determine the law that applies.

There are procedural options that allow a judge to dismiss a particular matter without the need to go all the way to trial. This article will focus on three of the most frequently used forms of involuntary early case dismissal: the plaintiff's "failure to state a claim upon which relief may be granted," "judgment on the pleadings," and "summary judgment."

Of Course There is No Claim!

Under the North Carolina Rules of Civil Procedure, a plaintiff (i.e., the one who files a lawsuit) must "state a claim" under North Carolina law. In other words, there must be some legally recognized claim for relief, for example, trespass or negligence, upon which the plaintiff intends to proceed.

Motions to dismiss for failure to state a claim arise early in the case and test the sufficiency of the complaint (the document filed by the plaintiff containing the statement of the case). In other words, when a defendant moves to have a judge dismiss a lawsuit for failure to state a claim, with very limited exceptions, the only information that the judge may review is the complaint itself, not any outside evidence, testimony, or other items.

However, the standard test for the sufficiency of the complaint is fairly liberal. The judge is required to assume that all of the allegations of facts in the complaint are true and may only dismiss the complaint if the allegations do not, on their face, support a claim for relief, or if the allegations reveal some fatal flaw in the claim asserted. At this early stage of the litigation, these are the only reasons for which the judge may

dismiss the case.

Who's Judging These Pleadings?

While a motion to dismiss for failure to state a claim deals only with the complaint, the defendant also may seek to have the case against the plaintiff dismissed by filing a motion for "judgment on the pleadings." The "pleadings" in a case are comprised of both the plaintiff's complaint and the defendant's answer (the defendant's response to the allegations of the complaint). In a motion for judgment on the pleadings, the judge is allowed to review both the complaint *and* the answer to determine whether the case should continue. The only prerequisite is that the pleadings be "closed," meaning that the plaintiff has filed the complaint and the defendant has answered.

On review of the pleadings in this type of dismissal, the judge looks to see if the material allegations of fact are admitted in the pleadings and thus only questions of law remain. In other words, if the pleadings show that the parties are not arguing about what happened, but rather only disagree about what the legal effects of those facts are under the law, the judge can simply consider the uncontested facts and the law and make a decision one way or the other.

For example, if the allegations of the pleadings show that two parties to a contract do not disagree that they signed the contract and that the contract is itself genuine, and the only disagreement is over how a particular provision should be interpreted, one or both of the parties may be able to put that issue to the judge and ask for the judge's ruling on that issue.

Summarily Judged

Similar to judgment on the pleadings, "summary judgment" is sought after the pleadings are closed. Again, summary judgment is appropriate only when there is no genuine dispute of material fact between the parties and the case is ready for judgment as a matter of law.

The distinction between this tool and the previous two is that all forms of evidence are admissible for the judge's consideration on summary judgment. The party filing a motion for summary judgment will ask the judge to consider items not attached to the pleadings, such as affidavits, oral testimony, deposition transcripts, or other evidence.

If the judge determines that there is no genuine dispute of material fact, and that the party seeking dismissal is entitled to judgment as a matter of law, then summary judgment will be granted and the case will be dismissed.

Conclusion

Each of the procedural mechanisms discussed in this article has unique application in every case. No strategy in one case is necessarily appropriate for another, and the efficacy of the motions is case- and situation dependent. However, there should be no mistaking that procedural dismissal of a matter is a difficult proposition. Courts absolutely favor resolution of cases on the merits, consistent with right of plaintiffs and defendants to have their day in court and have a jury determine contested facts. While these tools are exceptionally useful and are a part of every defense strategy, parties must keep in mind that these tools are not a surefire means to resolve all cases and that the time, expense, and anxiety of a complete trial may have to be endured.

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